IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 30TH MARCH 2007 / 9TH CHAITHRA 1929

Crl.MC.No. 1047 of 2007()

AGAINST THE ORDER DATED 15/02/2007 IN CMP.387/2007 IN CC.163/2002 of

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PETITIONER: ACCUSED

ANOOP, S/O. M.KUMARAN, AGED 26 YEARS,
KARIPPOT HOUSE, KADANGOD AMSOM DESOM,
VIA. ERUMAPETTY, THRISSUR DISTRICT.

BY ADV. SRI.SANTHEEP ANKARATH

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
ITS PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM, REPRESENTING THE SUB INSPECTOR OF
POLICE, CHANGARAMKULAM POLICE STATION.

BY Public Prosecutor Sri.S.U.NAZER

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 30/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.1047 of 2007

Dated this the 30th day of March, 2007

ORDER

The petitioner faces indictment in a prosecution for the offence punishable under Section 325 I.P.C. PW1 is the victim. He was examined and cross examined too. Long later, at the stage of defence evidence, the petitioner came forth with an application that he may be permitted to recall PW1 and further cross examine PW1. The learned Magistrate, by the impugned order, copy of which is produced as Annexure-A4, rejected the said prayer. The petitioner claims to be aggrieved by the said order. He has come to this Court with this petition under Section 482 Cr.P.C. He prays that on any appropriate terms, the petitioner may be given an opportunity to cross examine the defacto complainant.

2. Why does the petitioner want to recall PW1 ? The learned Magistrate noted that specific reasons have not been shown. The learned counsel for the petitioner submits that there are reasons, but they were not mentioned in the petition, lest effect of further cross examination would be guarded against and a fair cross examination would become impossible. The counsel at the Bar explains why it has become necessary to further cross examine PW1.

3. The reasons urged may not be too convincing, but I am satisfied, that in the interests of justice, the petitioner must be given an opportunity to further cross examine PW1. Of course, appropriate conditions can be imposed to ensure that PW1 is adequately compensated for such an inconvenience and hardship caused to him.

4. In the result, this Crl.M.C is, allowed. The learned Magistrate shall recall PW1 and permit the petitioner to further cross examine PW1 on condition that the petitioner deposits an amount of Rs.300/- (Rupees three hundred only) as cost in addition to the bata which is otherwise payable to PW1.

5. Hand over a copy of this order to the learned counsel for the petitioner. The petitioner shall produce the order before the learned Magistrate on or before 07.04.2007.

(R.BASANT, JUDGE)

rtr/-